

## **Remarks**

Applicant respectfully requests reconsideration of the rejections and that the case pass to issue in light of the amendments above and the remarks below.

### **Rejections Under 35 U.S.C. § 112**

Dependent claims 41 and 48 stand rejected under 35 U.S.C. § 112, first paragraph, as new matter.

Dependent claim 41 relates to displaying preview images for selected episode titles. Figure 4 and paragraph 52 of the published application support the claimed invention. Paragraph 52 describes a window 190 having a display portion 204. A static image of a selected episode 192 is shown within the display portion 204. The displayed image can be helpful to a subscriber in deciding whether to view an episode on-demand. The displayed image may be selected to identify the corresponding series with some known entity or personality.

Applicant points out that while the image may be used to identify the related series, the image, as clearly recited in the first sentence of paragraph 52, is an image from "the selected episode." While the image may provide other benefits, i.e., referencing the related series, it is selected from one of the episodes so that it can be helpful to the subscriber when deciding whether to view the selected episode on-demand. As such, Applicant submits the originally filed application does reasonably convey possession of the claimed invention to one having ordinary skill in the art.

Dependent claim 48 relates to displaying episode descriptions without displaying episode descriptions for episodes available from a personal video recorder of a user. Paragraph 23 of the published applications supports the claimed invention where it describes receiving the information used to populate the on-demand listing guide from a headend server of a media source 20. Because the information is described as being received from the media source 20, and

not a personal video recorder (PVR), one of ordinary skill in the art would understand that the information could be displayed without receiving the same information from the PVR. While paragraph 23 does not expressly prevent receiving the information from the PVR in all aspects of the present invention, it does, at least to one having ordinary skill in the art, reasonably convey displaying the information without reliance on the PVR.

### **Rejections Under 35 U.S.C. § 102**

Claims 46-48 and 50 stand rejected under 35 U.S.C. § 102(b) as being anticipated by USPN 5,850,218 to LaJoie. Independent claim 46 is the only independent claims subject to this rejection.

Independent claim 46 relates to a method of electronically displaying an on-demand listing guide. The method includes providing a user controllable interface that allows the user to browse through and select one of a plurality available episodic series. The method further includes displaying episode descriptions for each episode available on-demand for the selected episodic series. The displayed episode descriptions each at least include a title and synopsis for the corresponding episode, requiring multiple titles and synopses to be displayed at the same time if multiple episodes are available for a selected episodic series.

In order to properly reject claim 46 under 35 U.S.C. § 102(b), the Lajoie patent must disclose displaying episode titles and synopses for each episode available for a selected episodic series. The Lajoie patent fails to provide the requisite disclosure.

As shown in Figure 20, the Lajoie patent displays a number of themes within a theme listing 424. The theme listing 424 is actuated to change the program titles shown in a program list 432 to correspond with a selected theme. The claimed episodic series are distinct from the Lajoie theme listings in that the episodes displayed for a selected episodic series cannot be displayed under another episodic series. In contrast, the Lajoie themes allows the same programs to be listed under multiple themes, e.g., the highlighted 'CBS sports special' could also

be displayed if either one of the 'Sports' or 'Specials' themes were selected. This alone distinguishes claim 46 over the Lajoie patent.

The Lajoie patent, however, also fails to disclose displaying title and synopsis for each episode. The Lajoie patent only displays the title and synopsis for a single program 434 highlighted within a program listing 432. Titles and synopses are not displayed for the other programs shown with the guide 420. The showing time and channel number shown with the guide are not equivalent to the displayed titles and synopses since the information fails to convey any understanding or description of the program content.

Because the Lajoie patent fails to display episodic series and also fails to display titles and synopses for each displayed episode, the Lajoie patent fails to provide the requisite disclosure to properly reject claim 46 under 35 U.S.C. § 102(b). Consequently, claim 46 and the claims that depend therefrom are patentable and non-obvious over the Lajoie patent.

#### Dependent Claim 50

In order to properly reject dependent claim 50, the LaJoie patent must disclose displaying a preview image for a highlighted one of the episode titles where the preview image provides at least one static image from at least one scene of the highlighted episode title. The LaJoie patent fails to disclose relating a preview image to a highlighted episode title.

As shown in Figure 20 of the LaJoie patent, a window 340 displays a reduced size image of the normal television display so that the program being viewed prior to entering the program guide may continue to be viewed while in the guide. Optionally, the other content shown within the guide may be changed to match the images showing in the program viewing window 340. For example, the default theme or program highlighted when the user enters theme mode display 420 may correspond to the program being viewed in program viewing window 340.

The LaJoie patent only discloses displaying the currently tuned to channel within a portion of a program guide and relating the other information shown in the guide to the tuned to channel. The LaJoie patent fails to disclose displaying a static image within the window 340, let alone a static image selected from a scene from a highlighted one of a number of episode titles. Consequently, the Lajoie patent fails to disclose the limitations required to properly rejected dependent claim 50 under 35 U.S.C. § 102(b).

### **Rejections Under 35 U.S.C. § 103**

Claims 1-8, 10, 12-16, 38-40, and 42-45 stand under 35 U.S.C. § 103(a) as being unpatentable over the Lajoie patent in view of U.S.P.A. 2004/00600632 to Russ. Independent claims 1 and 42 are the only independent claims subject to this rejection - each are separately addressed below.

#### **Independent Claim 1**

Independent claim 1 relates to a method of electronically displaying an on-demand listing guide. The method includes displaying episode descriptions for episodes available for a given episodic series without requiring prior user identification of the episodes.

In order for the cited references to properly reject independent claim 1 under 35 U.S.C. § 103(a), the cited references must suggest displaying episode descriptions for an episodic series without requiring prior user identification of the displayed episodes. The cited references fail to provide the requisite suggestion.

As noted above, the Lajoie patent fails to suggest displaying descriptions for episodes available for a given episodic series. The Lajoie patent only discloses displaying programs available for a given theme. The Lajoie themes are distinct from the claimed episodic series. The Russ applications similarly fails to suggest displaying descriptions for episodes available for a given episodic series.

As shown in Figure 16, the Russ application displays a description in a box 1610 for a program highlighted in a row 1620. The titles listed in row 1620 identify recordings available on a personal video recorder (PVR) of a user. The titles, however, are not episodic series identifiers in so far as the titles cannot be selected to display episodes available for on-demand viewing. The titles shown in row 1620 are not episodic series titles since they do not reference a multitude of programs/episodes. The titles are simply titles of programs recorded by a user to the PVR.

Because the titles are not related to episodic series, the Russ applications fails to make-up of the deficiencies of the Lajoie application with respect to displaying descriptions for episodes available for a given episodic series and as required to properly reject independent claim 1 under U.S.C. § 103(a). Consequently, independent claim 1 and the claims that depend therefrom are patentable and non-obvious over the cited references.

#### Independent Claim 42

Independent claim 42 relates to a computer-readable medium comprising executable instructions for executing an electronic programming guide (EPG) application on a computer product. The computer-readable medium includes instructions to automatically display at least a plurality of episode titles for a user selected one of an episodic series where the displayed episode titles are limited to the episode titles listed in episodic series information received from a television service provider.

As noted above with respect to claim 1, the Lajoie patent and Russ application fail to suggest the claimed use of the episodic series information to facilitate display of episode titles available for on-demand viewing for a give episodic series. Consequently, the cited references fail to suggest the limitations required to properly reject independent claim 42 under U.S.C. § 103(a) such that claim 42 and the claims that depend therefrom are patentable and non-obvious over the cited references.

### Dependent Claim 48

Dependent claim 48 relates to displaying episode descriptions without displaying episode descriptions for episodes available from a personal video recorder (PVR) of a user. The Examiner relies upon USPA 2005/0188384 to Yogaratnam to suggest displaying episode descriptions without reliance on a PVR to provide the descriptions. The Yogaratnam application on suggest display recording icon used to initiate PVR recording within an electronic programming guide (EPG) depending on receipt of a status indicator from the (PVR). The Yogaratnam application fails to suggest anything more than preventing PVR recording when a PVR is unavailable. It has nothing to do with displaying episodic descriptions for a selected episodic series without reliance on receiving the descriptions from a PVR, as required to properly reject claim 48 under U.S.C. § 103(a).

### Conclusion

In view of the foregoing, Applicant submits that the clearly erroneous error set forth by the Examiner have been fully replied to and traversed. The Examiner is respectfully requested to consider these remarks and to enter the noted amendments.

Please charge any fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

**Ty O. Ahmad-Taylor**

By           /John R. Buser/            
John R. Buser  
Reg. No. 51,517  
Attorney/Agent for Applicant

Date: 12/01/2008

**BROOKS KUSHMAN P.C.**  
1000 Town Center, 22nd Floor  
Southfield, MI 48075-1238  
Phone: 248-358-4400  
Fax: 248-358-3351